

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

LINDY G. WRIGHT,	)	
	)	
Plaintiff	)	
	)	
v.	)	<u>Case No.: 3-06-CV-1087-WKW</u>
	)	
CHATTAHOOCHEE VALLEY COMMUNITY	)	
COLLEGE, et al.,	)	
	)	
Defendants	)	

**PLAINTIFF'S COUNSEL'S RESPONSE TO ORDER TO SHOW CAUSE**

Plaintiff's counsel hereby files this Response to the Honorable Court's January 18, 2007, Order to "show cause why he should not be sanctioned for violating Rule 11(b) of the Federal Rules of Civil Procedure by misrepresenting to the court that the parties had agreed to the Proposed Discovery Plan." For the reasons set forth below, the Court should not sanction plaintiff's counsel.

1. On January 8, 2007, the Court filed a Rule 26(f) Order reminding the parties "of the obligation, imposed by Rule 26(f) of the Federal Rules of Civil Procedure, to confer and to develop a proposed discovery plan. The Rule 26(f) report containing the discovery plan shall be filed as soon as practicable but not later than January 17, 2007."

2. On January 12, 2007, after conferring and developing a proposed discovery plan with co-counsel, Hon. Jennifer B. Cooley, plaintiff's counsel e-mailed a copy of said proposed discovery plan to defense counsel, Hon. Joan Yvette Davis, with the following note: "I've attached herein a draft copy of the Proposed Discovery Order in the Wright v. CVCC case. Please review it and make recommendations/suggestions to it, and re-send it to me. I'll file it by the deadline of January 17."

3. On January 16, 2007, plaintiff's counsel received a reply from Hon. Davis, saying: "This looks fine to me. Thanks."

4. On January 16, 2007, plaintiff's counsel electronically filed the proposed discovery plan with the Clerk of the Court using the Case Management/Electronic Case Filing system (CM/ECF).

5. Therefore, the assertion by defense counsel, Hon. H.E. Nix, Jr., that "neither Joan Yvette Davis, inhouse counsel for the Department of Post-Secondary Education, State of Alabama, nor H.E. Nix, Jr., spoke with or agreed with the plaintiff's attorneys regarding this Proposed Discovery Plan" (Doc. 8: Defense Motion, ¶ 7), is without merit.

For the foregoing reasons, the Court should not sanction plaintiff's counsel, but should instead enter an Order substantially in the form of the proposed discovery plan submitted by counsel on January 16, 2007.

Respectfully submitted,

/s/ Peter A. Dumbuya  
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Counsel for Plaintiff

/s/ Jennifer B. Cooley  
Jennifer B. Cooley (COO083)  
1507 Broad Street  
Phenix City, AL 36867  
(334) 298-7062  
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Hon. Joan Yvette Davis  
Department of Post-Secondary Education  
401 Adams Avenue, Suite 280  
Montgomery, AL 36130

Hon. H.E. Nix, Jr.  
Nix Holtsford Gilliland Higgins & Hitson, P.C.  
P.O. Box 4128  
Montgomery, AL 36103

/s/ Peter A. Dumbuya  
OF COUNSEL